

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

**J.G. EWING SEWER CONTRACTORS
INC.,**

Case No. 3:12 CV 2176

Plaintiff,

Magistrate Judge James R. Knepp, II

v.

ORDER

CITY OF TOLEDO,

Defendant.

This case revolves around Plaintiff J.G. Ewing Sewer Contractors, Inc.'s claims that Defendant City of Toledo engaged in antitrust violations, corrupt practices, municipal code noncompliance, civil conspiracy, and tortious interference with business relations. (*See* Doc. 1-1). Plaintiff initially filed suit in the Lucas County Court of Common Pleas. (Doc. 1-1). Defendant removed the case to this Court based on federal question jurisdiction stemming from the antitrust claim, which arises under 15 U.S.C. § 1, *et seq.* (Doc. 1; Doc. 1-2). *See* 28 U.S.C. §§ 1331. The parties then consented to the undersigned's exercise of jurisdiction in accordance with 28 U.S.C. § 636(c) and Civil Rule 73. (Doc. 7; Doc. 10).

On March 6, 2013, Plaintiff filed a Notice of Dismissal dismissing its antitrust count pursuant to Federal Civil Rule 41(a)(1)(A)(i). (Doc. 11). Plaintiff further indicated no federal question remains in this lawsuit absent the antitrust claim and asked the Court to remand the remaining claims to the Lucas County Court of Common Pleas for further proceedings. (Doc. 11). Though Plaintiff cannot dismiss its claim under Rule 41(a)(1)(A)(i) because Defendant filed an Answer (Doc. 3), the Court construes Plaintiff's Notice as a Motion to Dismiss under Rule 41(a)(2), which provides that an action may be dismissed by court order at the plaintiff's request.

The Court grants Plaintiff's Motion to Dismiss Count I of its Complaint. Further, because this Court lacks jurisdiction absent the federal question antitrust claim, the Court remands the remaining counts of Plaintiff's Complaint to the Lucas County Court of Common Pleas for all further proceedings.

IT IS SO ORDERED.

s/James R. Knepp II
United States Magistrate Judge